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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/848,770	05/03/2001	Michael T. Loos	26625-704	6636
21971	7590	11/14/2006	EXAMINER	
WILSON SONSINI GOODRICH & ROSATI 650 PAGE MILL ROAD PALO ALTO, CA 94304-1050			RUTTEN, JAMES D	
			ART UNIT	PAPER NUMBER
			2192	

DATE MAILED: 11/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/848,770

Applicant(s)

LOOS ET AL.

Examiner

J. Derek Rutten

Art Unit

2192

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 October 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☒ Applicant's reply has overcome the following rejection(s): Rejection of claims 11-21 under 35 U.S.C. § 112.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-26.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because:

Initially, it is noted that the claim amendments filed 10/10/06 do not comply with 37 CFR 1.121(c)(2) since claims 1, 11, 17, 22, and 24 contain the improper status identifier "Amended". Any claim amendments should carry the identifier "Currently Amended". However, the intention appears to be clear, since these claims contain markings that indicate the current amendment. Therefore, these claims have been interpreted as being "Currently Amended."

Applicants' amendments have obviated the drawing objections as well as the rejections under 35 U.S.C. § 112. Likewise, these have been withdrawn.

On page 9, filed 10/10/06, Applicant essentially argues with respect to claims 4 and 8 that Wright fails to disclose an action "to create a domain data store," "using the mobile data model to create a domain data store," or "using the mobile data model to create a domain data store in a middle tier server." These arguments are essentially repeated at the bottom of page 9 with respect to creation of a "server-side data store." This argument is not persuasive since this is supported by Wright column 6 lines 27-33. Further, Applicant suggests that there is no creation of a data store even though "the action of 'updating' a data source requires that the data source already exist. Otherwise, there is nothing to be updated." By similar logic, for something to exist, it must first be created. However, Applicant appears to suggest that such creation is not done "using the mobile data model." As suggested previously (see page 6 lines 6-10, mailed 8/10/06), a mobile data model is interpreted as an abstract representation of data. Wright's "database implementation," or "client database" is the instantiated mobile data store which is instantiated according to a data model. Without a data model, the data store could not have form or structure. Therefore, the existence of the data store requires creation according to, or "using," a data model.

On pages 10 and 11, filed 10/10/06, Applicant essentially argues with respect to claim 25 that Wright fails to disclose an "integration portion of the mobile data model." This argument is not persuasive. Wright's data store contains an integration component. Since the data store is instantiated from a mobile data model, any integration component necessarily suggests that the mobile data model carries an "integration portion."

On pages 11-12, filed 10/10/06, Applicant essentially argues with respect to claim 23, that Wright's database is not "derived from [an] enterprise information system or as taking the form of a first data model." This argument is not persuasive. Wright column 4 lines 38-43 discloses: "This allows portions of databases to be carried into the field..." A deployable mobile data model is modified ("portions...") from the first mobile data model ("... of databases"). Further, Wright's disclosure is explicitly directed to enterprise information systems. See column 3 lines 13-15.

On pages 13 and 14, filed 10/10/06, Applicants essentially argue with respect to claim 5, that Wright does not disclose a client updating the server, rather the server updates the data source. This argument is not persuasive. Column 4 lines 38-49 discloses a client that is "synchronized with the server database." This is interpreted as a client that gets access to a data source, modifies the data locally, and upon connection with the server, the data source is updated via a synchronization procedure. The plain language of the claim ("a first consumer...can access and update data instances in the domain data store...") is met by the act of synchronization.

On pages 14 and 15, filed 10/10/06, Applicants essentially argue with respect to claim 1, that the Wright reference does not disclose both "creating a mobile data model ... required for an application" and "instantiating a least a portion of the data model to create a mobile data store." This argument is not convincing. As suggested previously (see page 6 lines 6-10, mailed 8/10/06), a mobile data model is interpreted as an abstract representation of data. Wright's "database implementation," or "client database" is the instantiated mobile data store. The data model is an inherent feature of any data store since instantiation uses a model to organize and arrange data.

On page 16, Applicant expresses confusion regarding Wright's disclosure of a mobile data model. As addressed above, the mobile data model is inherent in the instantiation of the data store. Further limitations regarding explicit data models are taught by the Wadhwa reference. Therefore, Applicant's argument is not persuasive.



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